

NO. X06-UWY-CV-18-6046436 S :	SUPERIOR COURT
ERICA LAFFERTY, ET AL :	COMPLEX LITIGATION DOCKET
V. :	AT WATERBURY
ALEX EMRIC JONES, ET AL :	JULY 12, 2022
NO. X06-UWY-CV-18-6046437 S :	SUPERIOR COURT
WILLIAM SHERLACH :	COMPLEX LITIGATION DOCKET
V. :	AT WATERBURY
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**MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF EVIDENCE OF
WHITE SUPREMACY AND/OR RIGHT-WING EXTREMISM**

The defendants, pursuant to Practice Book § 15-3 and Code of Evidence §§ 4-3, 4-4 and 4-5; Article First, Sections 4 and 5 of the Connecticut Constitution; and the First and Fourteenth amendments of the United States Constitution, hereby move this Court in limine to issue orders precluding the introduction of evidence on the topics of white supremacy and right-wing extremism. Such evidence is not relevant to the issues that will be before the jury and would also be unfairly prejudicial and inflammatory to the defendants.

The plaintiffs have disclosed several potential expert witnesses. At least two of them, Dr. Heidi Beirich and Oren Segal, may, according to the disclosures, attempt to testify on the topics of white supremacy and right-wing extremism. Additionally, the plaintiffs may seek to introduce evidence on those topics through other witnesses and exhibits. No matter the source, evidence relating to those topics is irrelevant, would be an attack on the defendants' character and play to the emotions of the jury and distract from the main issues.

Relevant evidence is that which has “any tendency to make the existence of any fact that is material to the determination of the proceeding more probable or less probable than it would be without the evidence...” Code of Evidence § 4-1. Only relevant evidence is admissible. In a civil action, “issues are framed by the pleadings and are controlled by substantive law.” Williams Ford, Inc., v. Hartford Courant Co., 232 Conn. 559, 570 (1995) (quoting C. Tait & J. LaPlante, Connecticut Evidence (2d Ed.1988) § 8.1.2).

The plaintiffs have pled six causes of action: invasion of privacy by false light, defamation, defamation per se, intentional infliction of emotional distress, negligent infliction of emotional distress and violation of the Connecticut Unfair Trade Practices Act. Evidence regarding white supremacy and right-wing extremism, or testimony that purports to characterize the defendants and their actors as white supremacists or right-wing extremists, would not advance any of the elements of the aforementioned causes of action or establish potential damages. What it would do--and perhaps this is the intent--is distract from the issues and negatively characterize the defendants.

Attempts to associate the defendants with individuals who espouse racist or extreme views would amount to improper character evidence. Code of Evidence 4-4(a) provides that “evidence of a trait of character of a person is inadmissible for the purpose of proving that the person acted in conformity with the character trait” except in limited circumstances. The reason for the limitation is that such character evidence is usually of “slight value” and is often “laden with the dangerous baggage of prejudice, distraction, time consumption and surprise.” Berry v. Loiseau, 223 Conn. 786, 806 (1992). The limited circumstances for which character evidence may be introduced to prove that a

person acted in conformity with a character trait are the character of the accused, character of the victim in a homicide or assault case, character of a witness for truthfulness and character of a person to support a third-party culpability defense. None of those reasons apply in the present case.

In determining whether to admit character evidence, a court first must determine whether the proffered evidence is relevant and, if it determines that it is, then decide whether its probative value outweighs its prejudicial effect. See Berry, 223 Conn. at 804. “The test for determining whether evidence is unduly prejudicial is not whether it is damaging to the defendant but whether it will improperly arouse the emotions of the jury.” State v. Gupta, 297 Conn. 211, 230 (2010).

Allegations or associations of racism or extremism are inflammatory and unfairly prejudicial. Additionally, they implicate the First Amendment rights of free speech and free association. That a person is connected to those ideas or movements, however unpopular or reprehensible, has no bearing on whether he is liable for any of the causes of action at issue in this case. The United States Supreme Court, for instance, in Dawson v. Delaware, 503 U.S. 159, 166 (1992), reversed a death sentence because a court permitted evidence that the defendant was a member of the Aryan Brotherhood gang. The Court held that the evidence was not relevant to the sentencing phase of the trial because it, at most, related to the defendant’s possible abstract beliefs. The Court further noted that, “on the present record one is left with the feeling that the Aryan Brotherhood evidence was employed simply because the jury would find these beliefs morally reprehensible.” *Id.* at 167. Criminal courts take great care in determining whether to admit evidence of a defendant’s association with a gang because it can

suggest propensity or guilt by association. See e.g. State v. Bermudez, 341 Conn. 233, 250-251 (2020).

Any attempt by the plaintiffs to introduce evidence or testimony on white supremacy and right-wing or any other kind of political extremism is to distract the jury from the issues at hand--the causes of action and potential damages. It is a transparent effort to smear the defendants by associating them with unpopular ideas and people which themselves are not part of this case, which would violate the defendants' due process rights to a fair trial and also their constitutional rights to free expression and association. Jurors must decide issues and damages on facts, not their feeling about parties and not by the parties' associations and images.

WHEREFORE, the defendants respectfully request that the Court grant this motion in limine and preclude references to white supremacy and political extremism.

Respectfully Submitted,

Alex Jones,
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BY: /s/ Norman A. Pattis /s/
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ORDER

The foregoing motion is hereby:

GRANTED / DENIED

By: _____
The Court

CERTIFICATION

This is to certify that a copy of the foregoing has been emailed and/or mailed, this day, postage prepaid, to all counsel and pro se appearances as follows:

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